



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Charles D. Tobin
1909 K Street, NW
12th Floor
Washington, DC 20006

JUL 26 2019

RE: MUR 7544
WBOY-TV, LLC
Nexstar Broadcasting, Inc.

Dear Mr. Tobin:

On November 21, 2018, the Federal Election Commission ("Commission") notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On July 19, 2019, based upon the information contained in the complaint and information provided by respondents, the Commission decided to dismiss allegations that WBOY-TV, LLC and Nexstar Broadcasting, Inc. violated provisions of the Act. The Commission then closed its file in this matter. A copy of the General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). If you have any questions, please contact Kristina Portner, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in black ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure:
General Counsel's Report

160444774057

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7544

Respondents: WBOY-TV, LLC,
Nexstar Broadcasting, Inc.¹

Complaint Receipt Date: November 16, 2018

Response Date: December 5, 2018

EPS Rating:

Alleged Statutory

52 U.S.C. § 30101(9)(B)(i)

Regulatory Violations:

11 C.F.R. § 100.73

The Complaint alleges that, on October 20, 2018, WBOY-TV broadcast a thirty-two minute political rally featuring Vice President Michael Pence and supporting U.S. Senate candidate Patrick Morrisey.² Respondents acknowledge that WBOY-TV broadcast the October 20, 2018, rally and assert that it was a *bona fide* newscast of an event covered by numerous other news outlets.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the

¹ Nexstar Broadcasting, Inc. operates WBOY-TV. See FCC TV Station Profile for WBOY-TV, available at <https://publicfiles.fcc.gov/tv-profile/wboy-tv> (last visited May 16, 2019); Resp. at 1 (Dec. 5, 2018).

² Compl. at 1 (Nov. 16, 2018).

³ Resp. at 1. Although we were unable to locate a version of the broadcast, there is no information in the record to suggest that the program was paid content, as opposed to *bona fide* news coverage. See 11 C.F.R. § 100.73.

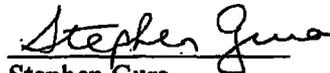
fact that the Respondents' reporting of the rally appears to fall within the media exemption, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file and send the appropriate letters.

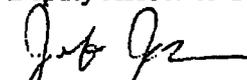
Lisa J. Stevenson
Acting General Counsel

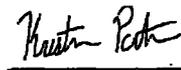
Charles Kitcher
Acting Associate General Counsel

6.26.19
Date

BY:


Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Kristina M. Portner
Attorney

1003447430001